IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 1613 of 1996

Between:

A. Samad s/o. Adbul Rahman, aged 48 years,
r/o. Medak.

..... Petitioner

And

1 The Presiding Officer, Labour Court,
Godhavaarikhani
2 Depot Manager Andhra Pradesh State Road Transport

Corporation, Karimnagar Depot, Karimnagar

(R.2 was dismissed for default as per Court order

dated 22-03-2000)

.....Respondents.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Order, direction or writ particularly in the nature of writ of certiorari after calling the records from Labour Court, Godhavarikhani and quash the award in I.D.No.108/90 dt. 20-2-1991 insofar as denying the back wages, continuity of service and attendant benefits and consequently direct the respondents to grant the back wages, continuity of service and other attendant benefits.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent No.1: Not appeared

The Court made the following :

ORDER:

The Petitioner, a conductor in the employment of the APSRTC, was appointed on 17-05-1971 and his services regularized with effect from 01-05-1972. While he was working in the Karimnagar Depot and conducting a service bus on 21-03-1976, on the route Nizamabad to Karimnagar, a check was exercised by the TTI and certain irregularities noticed. A charge memo was issued framing four charges, (a) that the petitioner failed to issue tickets to a batch of five persons who were found alighting at Kammarapally (Stage No.29) having boarded the bus at Mortad, (Stage No.31), despite collecting the fare from them at the rate of Rs.2/- per each, (b) for having punched tickets of 0-40 Ps. denomination each on the down mark; (c) for having failed to close the ticket numbers of 0-40 Ps. denomination against stage No.29; (d) for having closed the ticket numbers of all denominations upto stage No.29 except the
0-40 Ps. denomination in respect of stage No.29, without issuing tickets to the five persons referred to in Charge No.1 and (e) for having violated the rule of "Issue and Start". After a due process of domestic enquiry, the petitioner was inflicted the penalty of removal from service. He preferred an appeal. The appeal was rejected. He thereafter preferred a review. The Reviewing Authority set aside the order of removal but directed that the petitioner be appointed as a fresh candidate.

Aggrieved by the order of the Management treating him as a freshly appointed candidate and characterizing it as an order of termination, the petitioner filed Industrial Dispute No.108 of 1990 before the Labour Court, Godavarikhani under Section 2-A(2) of the Industrial Disputes Act, 1947 ('the Act' for short). By the Award dated 20-02-1991 relief was denied to the petitioner and the I.D. was dismissed. The

Labour Court concurred with the primary appellate and revisional authorities on the aspect that the petitioner was found guilty of having violated the mandatory requirement of 'issue and start'. Though there was no intent to misappropriate or defraud the monies of the Corporation, the Tribunal held that having regard to the gross dereliction of duties in having violated the rules of 'issue and start', the punishment of treating the petitioner as a fresh appointee and thereby depriving him of all past service as also the consequent monetary benefits, was not incommensurate with the gravity of the misconduct. This conclusion and decision was arrived at by the Tribunal in the plenitude of its discretion under Section 11(A) of the Act.

This Court finds no error in the application of Law, analysis of facts or exercise of discretion by the Labour Court, warranting interference in judicial review the punishment imposed on the petitioner is commensurate with a misconduct alleged and found. There are no merits in the writ petition.

In the result, the writ petition is dismissed. No order as to costs.

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GODA RAGHURAM, J

Dated: 07-10-2004.

Chvn.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Presiding Officer, Labour Court,
Godhavaarikhani
2 Depot Manager Andhra Pradesh State Road Transport

Corporation, Karimnagar Depot, Karimnagar

3. Two C.Cs. to the G.P. for Labour, High Court Buildings,

Hyderabad(OUT).

4. Two C.D.copies.